

MONDAY, AUGUST 17, 1998

At 9:00 a.m., the court met in the Library & Courts Building to begin its court calendar session.

PRESENT: BLEASE, Acting Presiding Justice
 DAVIS, Associate Justice
 CALLAHAN, Associate Justice

Bailiff: Conrad
Calendar Called:

MONDAY, AUGUST 17, 1998 CONTINUED

Civil DAVE STIRLING
No. v.
C029207 BILL JONES, AS SECRETARY OF STATE, ETC.
 MICHAEL CAPIZZI

Cause called. Charles H. Bell, Jr., of Bell, McAndrews & Hiltachk argued for Plaintiff-Appellant. James F. Sweeney, of Bell, McAndrews & Hiltachk appeared for Plaintiff-Appellant. Oliver S. Cox, Elections Counsel argued for Defendant-Respondent. George Waters, of Olson, Hagel, Leidigh, Waters & Fishburn argued for Amicus Curiae California Democratic Party. No appearance was made on behalf of Intervenor-Respondent. Cause submitted.

At 9:41 a.m., court recessed. At 9:45 a.m., court reconvened with Presiding Justice Puglia, Associate Justice Sims, and Associate Justice Scotland.

Civil ROBERT LAWSON ET AL.
No. v.
C026104 ROBERT A. VAN GALDER ET AL.

Cause called. Thomas T. McCormick, of McQuaid, Metzler, McCormick & Van Zandt argued for Defendants-X-Complainants-Appellant. Robert D. Nelson, of Parish & Nelson argued for Plaintiff-X-Defendants-Respondents. Cause submitted.

At 10:15 a.m., court recessed. At 10:15 a.m., court reconvened with the same panel except Associate Justice Raye in place of Associate Justice Scotland.

Crim. THE PEOPLE
No. v.
C025469 DEAN EDWARD DEGUARDA

Cause called. Barry J. Post argued for Defendant-Appellant. Mark A. Johnson, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted.

At 10:44 a.m., court recessed. At 10:46 a.m., court reconvened with the same panel except Associate Justice Nicholson in place of Associate Justice Sims.

MONDAY, AUGUST 17, 1998 CONTINUED

Juvenile
No.
C027875

In re APRIL W.
DEPARTMENT OF SOCIAL SERVICES
v.
KAREN W. ET AL.

Cause called. Enid E. Baggett argued for Defendant-Appellant Donna W. Karen W. argued for Herself in Pro Per as Defendant-Appellant Karen W. Frank S. Furtek, Supervising Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted.

At 11:14 a.m., court recessed. At 11:18 a.m., court reconvened with Acting Presiding Justice Scotland, Associate Justice Nicholson, and Associate Justice Morrison.

Juvenile
No.
C028537

In re ROBBIN T.
DEPARTMENT OF HEALTH AND HUMAN SERVICES
v.
TYREE T.

Cause called. David M. Meyers, of Dale S. Wilson argued for Defendant-Appellant. Lilly C. Frawley, Deputy County Counsel argued for Plaintiff-Respondent. Cause submitted.

At 11:457 a.m., court recessed. At 2:02 p.m., court reconvened with Presiding Justice Puglia, Associate Justice Sims, and Associate Justice Callahan.

Crim.
No.
C025717

THE PEOPLE
v.
BUDDY CARR

Cause called. Roberta Simon, court appointed counsel argued for Defendant-Appellant. Wayne K. Strumpfer, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted. (Consolidated with C027291)

Crim.
No.
C027291

THE PEOPLE
v.
BUDDY CARR

Cause called. Roberta Simon, court appointed counsel argued for Defendant-Appellant. Wayne K. Strumpfer, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted. (Consolidated with C025717)

MONDAY, AUGUST 17, 1998 CONTINUED

Court adjourned at 2:15 p.m., until 9:30 a.m., Tuesday, August 17, 1998

Civil	WENDELL PHILLIPS	(Not for Publication)
No.	v.	
C026734	COUNTY OF SACRAMENTO ET AL.	

The judgment is reversed with directions to the trial court to enter a judgment granting the petition and to issue a peremptory writ of mandate directing the Commission to vacate its order, to issue a new order adopting the factual finding made by the ALJ, and to render a new decision accordingly. Phillips shall recover his costs on appeal.

MORRISON, J.

We concur: PUGLIA, P.J.
 HULL, J.

Crim.	THE PEOPLE	(Not for Publication)
No.	v.	
C028723	RODLEY KEVIN DOZIER	

The judgment is affirmed.

SCOTLAND, Acting P.J.

We concur: NICHOLSON, J.
 HULL, J.

Crim.	THE PEOPLE	(Not for Publication)
No.	v.	
C024527	EDWARD ARTHUR GLUGOSKI ET AL.	

The judgment is affirmed.

SIMS, Acting P.J.

We concur: DAVIS, J.
 NICHOLSON, J.

TUESDAY, AUGUST 18, 1998

Crim. THE PEOPLE (Certified for Publication)

No. v.

C026947 WALTER JOHN HART

THE COURT:

It is ordered that the opinion filed herein on July 24, 1998, be modified in the following manner: ...

This modification does not change the judgment.

The People's petition for rehearing is denied.

FOR THE COURT:

PUGLIA, P.J.

RAYE, J.

MORRISON, J.

Civil CHRISTY SANTANGELO (Certified for Publication)

No. v.

C027317 ALLSTATE INSURANCE COMPANY

THE COURT:

It is ordered that the opinion filed herein on July 23, 1998, be modified in the following respect: ...

This modification requires the renumbering of subsequent footnotes.

There is no change in the judgment.

SIMS, Acting P.J.

DAVIS, J.

NICHOLSON, J.

At 9:30 a.m., the court met in the Library & Courts Building for a continuation of court calendar session.

PRESENT: BLEASE, Acting Presiding Justice
SCOTLAND, Associate Justice
NICHOLSON, Associate Justice

Bailiff: Rios
Calendar Called.

TUESDAY, AUGUST 18, 1998 CONTINUED

Crim. THE PEOPLE
No. v.
C025466 JOHN SCOTT DAVIS

Cause called. Handy Horiye, court appointed counsel argued for Defendant-Appellant. Susan J. Orton, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted.

At 9:59 a.m., court recessed. At 10:02 a.m., the court reconvened with Presiding Justice Puglia, Associate Justice Nicholson, and Associate Justice Raye.

Civil ELLEN MILLER
No. v.
C027176 SUPERIOR COURT, SAN JOAQUIN COUNTY
THE PEOPLE

Cause called. Charity Kenyon, of Diepenbrock, Wulff, Plant & Hannegan argued for petitioner. John E. Carne, of Crosby, Heafey, Roach & May argued for Amici Curiae CNPA ET AL. Stephen H. Johanson, of Johanson & Robinson argued for Amici Curiae Kelly Broadcasting Company et al. Susan J. Orton, Deputy Attorney General argued for Real Party in interest. Cause submitted.

Court adjourned at 11:16 a.m., until 9:30 a.m., Wednesday., August 19, 1998.

Crim. THE PEOPLE (Not for Publication)
No. v.
C028274 DONALD LEE PETERS

The judgment is affirmed.

SIMS, Acting P.J.

We concur: DAVIS, J.
MORRISON, J.

TUESDAY, AUGUST 18, 1998 CONTINUED

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C027580 JOHN BERNARDINO MORALES
 The judgment is affirmed.
 MORRISON, J.
 We concur: BLEASE, Acting P.J.
 SIMS, J.

Juvenile In re BREEZY J. ET AL., Persons Coming Under the Juvenile Court Law.
 No. SHASTA COUNTY DEPARTMENT OF SOCIAL SERVICES
 C028298 v. (Not for Publication)
 JOHN J.
 The orders of the juvenile court are affirmed.
 CALLAHAN, J.
 We concur: BLEASE, Acting P.J.
 RAYE, J.

Juvenile In re GARY M., a Person Coming Under the Juvenile Court Law.
 No. THE PEOPLE (Not for Publication)
 C027928 v.
 GARY M.
 The judgment is affirmed.
 SIMS, J.
 We concur: BLEASE, Acting P.J.
 MORRISON, J.

WEDNESDAY, AUGUST 19, 1998

At 9:30 a.m., the court met in the Library & Courts Building for a continuation of court calendar session.

PRESENT: SIMS, Acting P.J.
 MORRISON, Associate Justice
 CALLAHAN, Associate Justice

Bailiff: Rios
 Calendar Called.

Cause called. Michael Rothschild, of Rothschild, Wishek & Sands argued for Plaintiff-Appellant. Paul Reynaga, Deputy Attorney General argued for Defendants-Respondents. Cause submitted.

Court adjourned at 9:30 a.m., until 9:30 a.m., Monday., September 21, 1998

Juvenile In re ROBBIN T., a Person Coming Under the Juvenile Court Law.
No. DEPARTMENT OF HEALTH AND HUMAN SERVICES
C028537 v. (Not for Publication)
TYLEE T.

The order terminating appellant's parental rights is affirmed.
NICHOLSON, J.

We concur: SCOTLAND, Acting P.J.
MORRISON, J.

THURSDAY, AUGUST 20, 1998

Crim. THE PEOPLE (Certified for Partial Publication)
No. v.
C025717 BUDDY CARR
C027291 The judgment is affirmed.

SIMS, J.

We concur: PUGLIA, P.J.
CALLAHAN, J.

FRIDAY, AUGUST 21, 1998

Civil MARRIAGE OF EUGENE AND DEBRA CHITTOCK
 No. EUGENE CHITTOCK
 C027932 v.
 DEBRACHITTOCK
 BY THE COURT:

Pursuant to the joint application and stipulation for reversal for judgment the appeal filed November 3, 1997, is dismissed. The matter is remanded to the Lassen County Superior Court in accordance with the attached stipulation.

It is further ordered that each party is to bear their own costs, and the remittitur will issue forthwith pursuant to the stipulation of the parties.

Dated: August 21, 1998

PUGLIA, P.J.

Civil JOHN HARRIS (Not for Publication)
 No. v.
 C025746 MARY HARRIS ET AL.

The portion of the judgment awarding costs is reversed and the matter is remanded to the superior court for an award of costs consistent with this opinion. Otherwise, the judgment is affirmed. The parties shall bear their own costs on appeal.

MORRISON, J.

We concur: RAYE, Acting P.J.
 CALLAHAN, J.

MONDAY, AUGUST 24, 1998

Civil PHILIP ALLAN FANONY ET AL.
 No. v.
 C026517 WELLS FARGO BANK
 BY THE COURT:

Appellants' petition for rehearing is denied.

Dated: August 24, 1998

SCOTLAND, Acting P.J.

MONDAY, AUGUST 24, 1998 CONTINUED

Crim. THE PEOPLE
No. v.
C026615 RUSSELL WAYNE COOLEY

BY THE COURT:

Appellant's petition for rehearing is denied.

Dated: August 24, 1998

BLEASE, Acting P.J.

Civil PAUL C. ACREE ET AL. (Not for Publication)
No. v.
C024270 GENERAL MOTORS ACCEPTANCE CORP.

THE COURT:

It is ordered that the opinion filed herein on July 24, 1998, be modified in the following particulars: ...

These modifications do not change the judgment.

The petition for rehearing is denied.

BY THE COURT:

PUGLIA, P.J.

DAVIS, J.

CALLAHAN, J.

Juvenile In re GARY G., a Person Coming Under the Juvenile Court Law.
No. THE PEOPLE
C028905 v.

GARY G.

BY THE COURT:

Appellant's motion for reconsideration is granted. The dismissal order filed on July 27, 1998, is vacated and the appeal is reinstated.

Appellant's opening brief is to be served and filed on or before September 23, 1998.

Dated: August 24, 1998

PUGLIA, P.J.

MONDAY, AUGUST 24, 1998 CONTINUED

Juvenile In re HOLLY H., a Person Coming Under the Juvenile Court Law.
No. SISKIYOU COUNTY SOCIAL SERVICES
C029762 v.

LISA H.

BY THE COURT:

Pursuant to written request of appellants, the appeal filed June 9, 1998, is dismissed. It is further ordered that the remittitur issue forthwith. (See Cal. Rules of Court, rule 19 (b).)

Dated: August 24, 1998

PUGLIA, P.J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C028172 ROBERT SALAS

The judgment is affirmed.

MORRISON, J.

We concur: SCOTLAND, Acting P.J.
 NICHOLSON, J.

Civil ROBERT LAWSON ET AL. (Not for Publication)
No. v.
C026104 ROBERT A. VANGALDER ET AL.

The portion of the trial court's order denying defendants their costs is reversed. The portion of the order denying defendants their attorney fees is reversed to the extent it denies the recovery of fees incurred in defending against plaintiffs' fraud causes of action. The order is affirmed to the extent it denies defendants their attorney fees incurred in prosecuting their cross-complaint. The matter is remanded for further proceedings consistent with this opinion. Plaintiffs shall pay defendants' costs on appeal.

SCOTLAND, J.

We concur: PUGLIA, P.J.
 SIMS, J.

MONDAY, AUGUST 24, 1998 CONTINUED

Juvenile In re APRIL W., A Person Coming Under the Juvenile Court Law.
No. DEPARTMENT OF HEALTH AND HUMAN SERVICES
C027875 v. (Not for Publication)
KAREN W. AND DONNA W.
The order of the juvenile court denying the petition for modification
is affirmed.

RAYE, J.

We concur: PUGLIA, P.J.
NICHOLSON, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C025466 JOHN SCOTT DAVIS
The judgment is affirmed.

SCOTLAND, J.

I concur:

NICHOLSON, J.

I concur in the judgment and opinion except as to Part III, in which I concur in the result, and except as to Part IV, as to which I would remand for resentencing.

BLEASE, Acting P.J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C025469 DEAN EDWARD DEGUARDA
The judgment is affirmed.

RAYE, J.

I concur: PUGLIA, P.J.

In concur in the majority opinion.

I write separately to amplify why I think defendant's sentence was properly enhanced with a five-year term pursuant to Penal Code section 667.51.

... SIMS, J.

AUGUST 25, 1998

Civil CHARLES W. SILLER
 No. v.
 C023906 NEAL SILLER
 BY THE COURT:
 Appellant's petition for rehearing is denied.
 Dated: August 25, 1998
SIMS, Acting P.J.

Crim. THE PEOPLE
 No. v.
 C027015 PETER BRIAN SHEARER
 BY THE COURT:
 Appellant's petition for rehearing is denied.
 Dated: August 25, 1998
PUGLIA, P.J.

Civil ELIZABETH CHRISTINA SUNIGA ET AL.
 No. v.
 C027089 WILLIS CLEMENT HICKMAN ET AL.
 BY THE COURT:
 Appellants' petition for rehearing is denied.
 Dated: August 25, 1998
PUGLIA, P.J.

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C027745 MYRON CHARLES ELRED
 The judgment is affirmed.
BLEASE, J.
 We concur: PUGLIA, P.J.
 DAVIS, J.

AUGUST 25, 1998 CONTINUED

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C027213 SYLVIA CISNEROS GRANADOS

The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment indicating the court imposed a \$150 fee pursuant to section 11372.7 and a \$50 fee pursuant to section 11372.5, a copy of which shall be forwarded to the Department of Corrections.

BLEASE, J.

We concur: PUGLIA, P.J.
 DAVIS, J.

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C028200 RICHARD A. PORTUGAL, JR.

The judgment is affirmed.

RAYE, J.

We concur: PUGLIA, P.J.
 HULL, J.

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C027535 PAUL EUGENE FREER

The judgment is affirmed.

RAYE, J.

We concur: BLEASE, Acting P.J.
 DAVIS, J.

AUGUST 26, 1998

Civil DAVE STIRLING (Certified for Publication)
No. v.
C029207 BILL JONES, as Secretary of State etc.

Let a peremptory writ of mandate issue directing the Secretary of State to accept Stirling's ballot designation of "Chief Deputy Attorney-General." Under Rule 24 (d), we order that this decision granting the peremptory writ of mandate is final immediately as to this court. The parties to pay their own costs. (CERTIFIED FOR PUBLICATION)

DAVIS, J.

I concur: CALLAHAN, J.

I dissent. ...

I would not treat this appeal as a petition for an original writ; I would affirm the judgment. (CERTIFIED FOR PUBLICATION)

BLEASE, Acting P.J.

Civil ELLEN MILLER (Certified for Publication)
No. v.
C027176 SUPERIOR COURT OF SAN JOAQUIN COUNTY
THE PEOPLE

The alternative writ of prohibition is discharged and the stay order vacated. The petition for peremptory writ of prohibition is denied.

PUGLIA, P.J.

We concur: NICHOLSON, J.

RAYE, J.

Civil CARL WARREN & COMPANY ET AL.
No. v. (Not for Publication)
C028805 SUPERIOR COURT OF SACRAMENTO
SEAN O'HARA

Let a peremptory writ of mandate issue directing the respondent superior court to vacate its January 22, 1998, order to the extent that it denies summary adjudication of the sixth, eighth and tenth causes of action of plaintiff's first amended complaint, and to grant the motion for summary adjudication of those causes of action and enter judgment in favor of petitioner Marjorie Hickey. Petitioners are to recover costs.

PUGLIA, P.J.

We concur: MORRISON, J.

RAYE, J.

AUGUST 26, 1998 CONTINUED

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C028139 MARSHALL BEDFORD BRADLEY

The judgment is affirmed.

HULL, J.

We concur: PUGLIA, P.J.
 MORRISON, J.

Juvenile In re ANGELO M. ET AL., Persons Coming Under the Juvenile Court
 No. Law.
 C029063 SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN
 SERVICES
 V.
 DEBBIE A.

The orders denying appellant's motion to modify and terminating her
 parental rights are affirmed.

SIMS, Acting P.J.

We concur: DAVIS, J.
 MORRISON, J.

THURSDAY, AUGUST 27, 1998

Juvenile CLYDE PRIEST, A Minor, etc.
 No. v.
 C027256 CITY OF STOCKTON
 BY THE COURT:

Respondent's petition fore rehearing is denied.

Dated: August 27, 1998

SIMS, Acting P.J.

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C028161 WILLIAM FRANK MARTIN

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: DAVIS, J.
 RAYE, J.

THURSDAY, AUGUST 27, 1998 CONTINUED

Juvenile In re ANDREW R., a Person Coming Under the Juvenile Court Law
No. HUMAN RESOURCES AGENCY (Not for Publication)
C027497 v.

REBECCA R. AND JOSE R.

The judgment is reversed. The case is remanded for further jurisdictional proceedings as to the minor Andrew.

BLEASE, Acting P.J.

We concur: DAVIS, J.
 RAYE, J.

FRIDAY, AUGUST 28, 1998

Civil GUADALUPE ROMO ET AL. (Not for Publication)
No. v.
C026765 GRANT JOINT UNION HIGH SCHOOL DISTRICT ET AL.

The judgment is reversed. The trial court is instructed to vacate its order on defendants' motion for summary judgment/summary adjudication and enter a new order as follows: Defendants' motion for summary judgment is denied. Defendants' motion for summary adjudication is granted as to the second cause of action (negligent supervision and hiring) and the fourth cause of action (civil rights violation)

Plaintiffs shall recover their costs on appeal.

RAYE, Acting P.J.

We concur: MORRISON, J.
 CALLAHAN, J.

AUGUST 31, 1998

Crim. THE PEOPLE (Not for Publication)
No. v.
C028431 NATHAN DUDLEY SMITH

The judgment is affirmed.

HULL, J.

We concur: SCOTLAND, Acting P.J.
 NICHOLSON, J.

AUGUST 31, 1998 CONTINUED

Juvenile In re the Marriage of JANICE M. and JEFFERSON T. DUCKETT
 No. JANICE M. DUCKETT (Not for Publication)
 C026571 v.
 C026572 JEFFERSON T. DUCKETT
 The orders are affirmed. Janice Duckett shall receive costs on
 appeal.

CALLAHAN, J.

We concur: BLEASE, Acting P.J.
 NICHOLSON, J.

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C027615 REFUGIO JAY ZUNIGA
 The judgment is affirmed.

RAYE, J.

We concur: BLEASE, Acting P.J.
 DAVIS, J.

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C025471 YEE VANG
 The judgment is affirmed.

CALLAHAN, J.

We concur: PUGLIA, P.J.
 NICHOLSON, J.

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C028385 CHRISTOPHER GLENN JIMENEZ
 The judgment is affirmed.

MORRISON, J.

We concur: SIMS, Acting P.J.
 DAVIS, J.

AUGUST 31, 1998 CONTINUED

Civil EVER GREEN GROUP (Not for Publication)
No. v.
C027584 GAF BUILDING MATERIALS CORPORATION ET AL.
The judgment is affirmed.
MORRISON, J.
We concur: SCOTLAND, Acting P.J.
CALLAHAN, J.

Juvenile In re ESBYDY C., a Person Coming Under the Juvenile Court Law.
No. THE PEOPLE (Not for Publication)
C026834 v.
ESBYDY C.
The judgment is affirmed.
MORRISON, J.
We concur: PUGLIA, P.J.
RAYE, J.

Civil ROBERT KAMPF (Not for Publication)
No. v.
C028008 CALIFORNIA COMMISSION ON TEACHER CREDENTIALING ET
AL.
 The judgment is affirmed.
 MORRISON, J.
We concur: SIMS, Acting P.J.
 CALLAHAN, J.